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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,366	09/27/2001	Richard B. Wank	WRN0016	6436
7590	09/21/2005		EXAMINER	
Garlick & Harrison P.O. Box 342019 Austin, TX 78734			NGUYEN, STEVEN H D	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/965,366	WANK, RICHARD B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Steven HD Nguyen	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 September 2001.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-34 is/are allowed.  
 6) Claim(s) \_\_\_\_\_ is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 September 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/27/01</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

*Ex parte Quayle*

1. This application is in condition for allowance except for the following formal matters:

As claim 1, line 8, "a" must be changed to – the --.

As claim 2, line 3, the acronym "USPR" must be spell out.

As claim 5, line 3, the acronym "BLSR" must be spell out.

As claim 9, line 9, "the" should be changed to – a --.

As claim 9, line 10, "a" must be changed to – the --.

As claim 9, line 12, "a' should be deleted.

As claim 10, line 2, "a" must be changed to – the --.

As claim 10, line 4, "a' should be deleted.

As claim 10, line 7, "a" must be changed to – the --.

As claim 11, line 3, the acronym "USPR" must be spell out.

As claim 14, line 3, the acronym "BLSR" must be spell out.

As claim 18, line 9, "a' should be deleted.

As claim 18, line 12, "a" must be changed to – the --.

As claim 18, line 12, "the" should be changed to – a --.

As claim 19, line 4, the acronym "USPR" must be spell out.

As claim 22, line 4, the acronym "BLSR" must be spell out.

As claim 26, line 11, "the" should be changed to – a --.

As claim 26, line 12, "a" must be changed to – the --.

As claim 26, line 14, "a' should be deleted.

As claim 27, line 4, "a" must be changed to – the --.

As claim 27, line 6, "a' should be deleted.

As claim 27, line 9, "a" must be changed to – the --.

As claim 28, line 4, the acronym "USPR" must be spell out.

As claim 31, line 4, the acronym "BLSR" must be spell out.

Prosecution on the merits is closed in accordance with the practice under *Ex parte*

*Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

***Allowable Subject Matter***

2. Claims 1-34 are allowed.
3. The following is a statement of reasons for the indication of allowable subject matter:

As claims 1 and 18, the prior arts fails to disclose a method and a network element comprising when the network element is not the termination node of the communication link, determining an optimal path for the communication link via a plurality of network elements of the communication network based on the link protection criteria; determining type of path to an adjacent one of the plurality of network elements based on link coupling protocol of coupling to the adjacent one of the plurality of network elements; and processing the link command based on the type of path to the adjacent one of the plurality of network elements within a structure of the claims.

As claims 1 and 18, the prior arts fails to disclose a method and a network element comprising determining whether the link command is a network manager link command or a

network element link command, wherein the link command identifies at least one of a first port and a second port of a communication link; when the link command is a network manager link command: determining type of the link command; when the type of the link command is an establish a connection command: determining an optimal path for the communication link via a plurality of network elements of the communication network in accordance with the link protection criteria; determining type of path to an adjacent one of the plurality of network elements based on link coupling protocol of coupling to the adjacent one of the plurality of network elements; and processing the link command based on the type of path to the adjacent one of the plurality of network elements within a structure of the claims.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Uematsu (USP 6785224) discloses a method and system for performing topology construction for ring by circulating topology data through the nodes and collecting connection information of the nodes.

Falkenstein (US 20020080445) discloses a method and system for allowing a user to provision the behavior and report the results of path level signal monitoring and of path level protection switching.

Hillard (USP 6765880) discloses a method and system for eliminating the unprotected paths from the protectable shortest path tree.

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Mansingh (USP 6751660) discloses a NMS for managing the network by receiving cross connection and other information from the nodes.

Phelps (U 20020118636) discloses a method and system for establishing a protected path between the nodes after detecting a failure link.

Lu (USP 5412652) discloses a method and system for managing the network by transmitting a ring table containing the working and protected channels for BLSR and UPSR to each node.

Grover (USP 6819662) discloses a method and system for protecting a network.

Szviatovszki (US 20020141345) discloses a method and system for establishing a shortest path between first and second nodes based on the priority level of the request message.

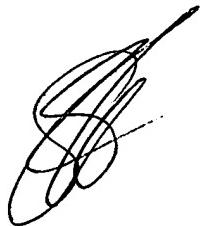
Magill (USP 6606297) discloses a method and system for allocating a minimum spare bandwidth and corresponding admission control.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven HD Nguyen  
Primary Examiner  
Art Unit 2665  
9/16/05